

Remarks/Arguments

Applicants provisionally elect Group I (claims 1-14, 20, 24 and 27) and the GBV-B structural region (b) (bases 446-487 of SEQ ID NO: 1). The examiner argues that Unity of Invention is lacking based on Lohman et al. (Science, Vol. 285, pp 110-113, 1999). Lohman et al. is cited for allegedly teaching GBV replicons containing components falling within claim 1. The election is made with traverse.

Unity of Invention for claims 1-19, 24 and 27 is provided by the GBV-B replicon description in claim 1. Lohman et al. concerns HCV replicons, not replicons based on GBV-B sequences. The patent office fails to indicate, for example, where Lohman et al. describes replicon containing sequences substantially similar to the GBV-B based regions provided in claim 1. Substantially similar sequences are defined in the application as having a sequence identity of at least 85%. (See the present application on page 11, lines 25 and 26.)

Based on Lohman et al. the claims were first divided into:

- Group I: Claims 1-14, 20, 24, and 27 drawn to a GBV replicon comprising a GBV-B 5' UTR, a selection or reporter sequence, an internal ribosome entry site, a NS3-NS5B sequence and GBV-B 3' UTR;
- Group II: Claims 15 and 16, drawn to a method of making a second GBV-B replicon from a first GBV-B replicon; and
- Group III: Claims 17-19 drawn to a method of measuring the ability of a compound to affect GBV-B replicon activity.

Applicants note that claim 20 is not directed to a GBV-B replicon. Claim 20 is directed to a GBV-B replicon enhanced cell having maintenance and activity efficiency of at least 25% when transfected with a GBV-B replicon of SEQ ID NO: 1 by the Electroporation Method.

A further restriction requirement was provided based on the GBV-B structural regions described in several claims, which claims ultimately depend from claim 1:

- a) bases 446-511 of SEQ ID NO: 1;
- b) bases 446-487 of SEQ ID NO: 1;
- c) bases 446-4691 of SEQ ID NO: 1;
- d) RNA version of bases 446-2461 of SEQ ID NO: 2;
- e) RNA version of bases 446-2642 of SEQ ID NO: 2; and

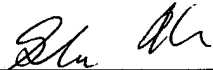
f) RNA version of bases 446-3265 of SEQ ID NO: 2.

Groups (a)-(f) claims, Group II and Group III, ultimately depend from claim 1. Thus, the replicon description of claim 1 provides a special technical feature for Group (a)-(f) claims and Groups II and III.

Applicants' arguments concerning the restriction requirement are directed to Unity of Invention based on a common technical feature and are not arguments concerning the patentability of one claim or group of claims in light of another claim or group of claims. The presence of additional features noted in the different claims provides further bases for patentability of such claims.

Please charge deposit account 13-2755 for fees due in connection with this amendment. If any time extensions are needed for the timely filing of the present amendment, applicants petition for such extensions and authorize the charging of deposit account 13-2755 for the appropriate fees.

Respectfully submitted,

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